

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND ALLEN REDWINE, No. C-11-4233 TEH (PR)
Petitioner,
v.
R. GROUNDS, Warden,
Respondent.

ORDER TO SHOW CAUSE

Petitioner, a state prisoner incarcerated at Correctional Training Facility-North in Soledad, California, has filed a pro se Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 challenging a judgment of conviction from Butte County Superior Court. Doc. #1. Petitioner also seeks leave to proceed in forma pauperis. Doc. ## 2 and 4.

I

According to the Petition, in April 2008, Petitioner was sentenced to nineteen years in state prison following his conviction of second degree robbery. Doc. #1 at 1. Petitioner sought post-

1 conviction relief in the state superior and appellate courts until
2 the California Supreme Court denied his final petition on July 13,
3 2011. Doc. #1 at 3-5, 7, 21, 25, 27-30. The instant federal
4 Petition for a Writ of Habeas Corpus followed.

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6 II

7 This Court may entertain a petition for a writ of habeas
8 corpus "in behalf of a person in custody pursuant to the judgment of
9 a State court only on the ground that he is in custody in violation
10 of the Constitution or laws or treaties of the United States." 28
11 U.S.C. § 2254(a). It shall "award the writ or issue an order
12 directing the respondent to show cause why the writ should not be
13 granted, unless it appears from the application that the applicant
14 or person detained is not entitled thereto." Id. § 2243.

15 Petitioner seeks federal habeas corpus relief by alleging
16 that trial counsel was ineffective when he failed to inform
17 Petitioner about the "two-dismissal rule", resulting in Petitioner
18 rejecting the initial plea bargain of eight years and four months.
19 Doc. #1 at 3, 5.

20 Liberally construed, Petitioner's claims appear cognizable
21 under 28 U.S.C. § 2254 and merit an Answer from Respondent. See
22 Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts
23 must construe pro se petitions for writs of habeas corpus
24 liberally).

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26 III

27 For the foregoing reasons and for good cause shown,

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1 1. Petitioner's requests to proceed in forma pauperis
2 (Doc. ## 2 & 4) are GRANTED.

3 2. The Clerk shall serve by certified mail a copy of
4 this Order and the Petition, and all attachments thereto (i.e., Doc.
5 #1), on Respondent and Respondent's attorney, the Attorney General
6 of the State of California. The Clerk also shall serve a copy of
7 this Order on Petitioner.

8 3. Respondent shall file with the Court and serve on
9 Petitioner, within sixty (60) days of the issuance of this Order, an
10 Answer conforming in all respects to Rule 5 of the Rules Governing
11 Section 2254 Cases, showing cause why a writ of habeas corpus should
12 not be granted. Respondent shall file with the Answer and serve on
13 Petitioner a copy of all portions of the state trial record that
14 have been transcribed previously and that are relevant to a
15 determination of the issues presented by the Petition.

16 If Petitioner wishes to respond to the Answer, he shall do
17 so by filing a Traverse with the Court and serving it on Respondent
18 within thirty (30) days of his receipt of the Answer.

19 4. In lieu of an Answer, Respondent may file a Motion to
20 Dismiss on procedural grounds, as set forth in the Advisory
21 Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.
22 If Respondent files such a motion, Petitioner shall file with the
23 Court and serve on Respondent an Opposition or Statement of
24 Non-Opposition within thirty (30) days of receipt of the motion, and
25 Respondent shall file with the Court and serve on Petitioner a Reply
26 within fifteen (15) days of receipt of any Opposition.

27 5. Petitioner is reminded that all communications with
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1 the Court must be served on Respondent by mailing a true copy of the
2 document to Respondent's counsel. Petitioner also must keep the
3 Court and all parties informed of any change of address.

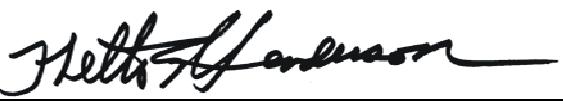
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5 IT IS SO ORDERED.

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7 DATED

01/31/2012


THELTON E. HENDERSON
United States District Judge

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